

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TONY RAY MITCHELL,

Plaintiff,

VS.

HAROLD EAVENSON, et al.,

Defendants.

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Civil Action No. 3:17-CV-3473-D

ORDER


After making an independent review of the pleadings, files, and records in this case, and the May 30, 2018 findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, and this action is dismissed without prejudice for want of prosecution and failure to comply with a court order.

The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit.

See Baugh, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

SO ORDERED.

July 5, 2018.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE